

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
TIMOTHY PIGFORD, <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 97-1978 (PLF)
)	
DAN GLICKMAN, Secretary,)	
United States Department of Agriculture,)	
)	
Defendant.)	
_____)	
CECIL BREWINGTON, <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 98-1693 (PLF)
)	
DAN GLICKMAN, Secretary,)	
United States Department of Agriculture,)	
)	
Defendant.)	
_____)	

ORDER

The Court has scheduled hearings on three separate matters in this case for July 31, 2000, at 10:00 a.m. The Court will hear argument first on certain individual plaintiffs' motion to reconsider the fairness of the Consent Decree pursuant to Rule 60(b)(5) and 60(b)(6). The Court then will hear argument on class counsel's motion for an interim award of attorneys' fees and costs. Finally, the Court will hear argument on the Banks Law Firm's motion for attorneys' fees and costs. The July 31 hearing is limited to these three matters only.

With respect to certain individual plaintiffs' motion to reconsider the fairness of the Consent Decree, the Court will hear argument on a limited number of issues. Because this motion was filed and fully briefed several months ago, many issues raised in the motion have been resolved or have become moot in the intervening time.¹ Furthermore, certain arguments offered by plaintiffs appear to be the same ones simultaneously made by these same individual plaintiffs in the court of appeals, all of which have since been rejected by the D.C. Circuit. See Pigford v. Glickman, 206 F.3d 1212 (D.C. Cir. 2000), *aff'g* Pigford v. Glickman, 185 F.R.D. 82 (D.D.C. 1999).

Plaintiff's counsel therefore should focus their argument on the following three questions: (1) does this Court have jurisdiction to hear this motion; (2) assuming that the Court does have jurisdiction, precisely what changed circumstances justify reconsideration of the fairness of the Consent Decree under Rule 60(b)(5) and/or Rule 60(b)(6) of the Federal Rules of Civil Procedure; and (3) assuming that reconsideration is warranted, what remedy should the Court adopt — should it set aside the Consent Decree, or simply modify it? If plaintiffs believe that modification is the proper remedy, they shall be prepared to offer the Court specific revisions that they believe will remedy the alleged unfairness of the Consent Decree as presently constituted. The Court does not anticipate that its consideration of these issues will require any testimony from witnesses or the submission of any additional documentary evidence; the hearing

¹Several of the issues raised in the motion were resolved by the Order of Reference entered by this Court on April 4, 2000, including the questions of what standard the Monitor uses to evaluate Petitions for Monitor Review and whether claimants are able to supplement the record when filing their Petitions. See Order of Reference ¶ 8(e); see also Stipulation and Order, July 14, 2000 (resolving disputes regarding late-filed claims).

therefore will include argument from counsel only — this is not an evidentiary hearing.

Accordingly, it is hereby

ORDERED that argument on certain plaintiffs' motion to reconsider the fairness of the Consent Decree pursuant to Rule 60(b)(5) and 60(b)(6) is scheduled to begin promptly at 10:00 a.m. on July 31, 2000, in Courtroom No. 20. The Court will hear first from plaintiffs' counsel, then from plaintiffs' class counsel, and then from defendant's counsel. Movants will have a maximum of forty-five minutes to present argument, including any rebuttal argument. Plaintiffs' class counsel will have a maximum of fifteen minutes; defendant's counsel will have a maximum of forty-five minutes. The Court will not hear any testimony with respect to this motion and, except for extraordinarily good cause, will not accept any documentary evidence beyond what already has been filed with the Court and provided to opposing counsel prior to the hearing; it is

FURTHER ORDERED that argument on class counsel's motion for an interim award of attorneys' fees and costs is scheduled to begin immediately after the conclusion of argument on the motion to reconsider. The Court intends to take a one-hour lunch (to begin no later than 1:00 p.m.), after which it will resume the hearing on this motion. The Court will hear first from the attorneys representing class counsel, then from defendant's counsel. Each party will have a maximum of forty-five minutes to present argument, including any rebuttal argument. The Court will not hear any testimony with respect to this motion; and it is

FURTHER ORDERED that argument on the Banks Law Firm's motion for attorneys' fees and costs is scheduled to begin immediately after the conclusion of the argument on the motion respecting class counsel's fees. The Court will hear first from the Banks Law Firm, then from defendant's counsel. Each party will have a maximum of thirty minutes to present

argument, including any rebuttal argument. The Court will not hear any testimony with respect to this motion. Court will adjourn no later than 4:00 p.m.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE:

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